# Chapter DFI–Bkg 11

## PROCEDURE BEFORE THE ADMINISTRATOR OF THE DIVISION OF BANKING

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**Note:** Chapter Bkg 11 was renumbered Chapter DFI–Bkg 11 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, June, 1997, No. 498, eff. 7–1–97.

**DFI–Bkg 11.01 Application of rules.** These rules shall apply in all proceedings and hearings had before the administrator of the division of banking in matters within his or her jurisdiction and shall apply except in cases where inconsistent with the procedure provided by statute in particular instances. "Administrator" means the administrator of the division of banking in the department of financial institutions.

**Note:** 1995 Wis. Act 27 replaced the commissioner of banking with the division of banking in the department of financial institutions.

**History:** 1–2–56; am. Register, July, 1968, No. 151, eff. 8–1–68; correction made under s. 13.93 (2m) (b) 5., Stats., Register, December, 1991, No. 432; correction made under ss. 13.92 (b) (b) 6. and 35.17, Stats., Register March 2020 No. 771.

**DFI–Bkg 11.02 Place of hearings.** Unless otherwise specifically provided by law or ordered by the administrator, all hearings shall be held at the office of the Administrator of the Division of Banking of Wisconsin, 4822 Madison Yards Way, North Tower, Madison, Wisconsin, 53705.

**History:** 1–2–56; am. Register, July, 1968, No. 151, eff. 8–1–68; correction made under s. 13.92 (4) (b) 6., Stats., Register December 2012 No. 684; correction made under s. 13.92 (b) (b) 6., Stats., Register March 2020 No. 771; **CR 23–039: am. Register March 2024 No. 819, eff. 4–1–24.**

**DFI–Bkg 11.03 Conduct of hearings.** All hearings shall be conducted and presided over by the administrator or such subordinate as the administrator designates.

**History:** 1–2–56; am. Register, July, 1968, No. 151, eff. 8–1–68; correction made under s. 13.92 (b) (b) 6., Stats., Register March 2020 No. 771; **CR 23–039: am. Register March 2024 No. 819, eff. 4–1–24.**

**DFI–Bkg 11.04 Hearings public.** All hearings shall be open to the public except where otherwise specifically provided by statute or ordered by the administrator or the subordinate having charge of the matter involved in said hearing.

**History:** 1–2–56; correction made under s. 13.92 (b) (b) 6., Stats., Register March 2020 No. 771.

**DFI–Bkg 11.05 Subpoenas.** The administrator may issue subpoenas for the attendance of a party or any witness at a hearing, whether the administrator is to conduct the hearing or not. Subpoenas may be in the form provided by s. 885.02, Stats.

**History:** 1–2–56; am. Register, July, 1983, No. 331, eff. 8–1–83; correction made under s. 13.92 (b) (b) 6., Stats., Register March 2020 No. 771.

**DFI–Bkg 11.06 Record. (1)** A transcript shall be prepared of the proceedings at a hearing in any contested case as defined by s. 227.01, Stats., or in any proceeding at the direction of the administrator or on the request of any party establishing a reasonable need therefor. The transcript together with all exhibits shall be a part of the official record of the proceedings.

**(2)** Any person desiring a copy of the transcript shall arrange for a court reporter, at the person's expense, at least 30 days before the commencement of the proceedings and shall simultaneously so notify the administrator. In the alternative, any person desiring a copy of the transcript shall request that the administrator obtain the services of a court reporter to produce the transcript, at the person's expense, at least 30 days before the commencement of the proceedings. The cost of each copy shall be paid by the person requesting it. A charge of 75¢ for each 8 1/2 by 11 inch page will be charged for copies prepared by the office of administrator. However, if the administrator determines that any party is impecunious or would suffer an undue economic hardship, such party shall be provided a copy of the transcript without charge. Where a transcript of proceedings, other than a contested case, is prepared at the request of any party, such party shall also pay all recording and transcription costs.

**History:** 1–2–56; r. and recr. Register, May, 1977, No. 257, eff. 6–1–77; correction made under s. 13.92 (b) (b) 6., Stats., Register March 2020 No. 771; **CR 23–039: am. (2) Register March No. 819, eff. 4–1–24.**

**DFI–Bkg 11.07 Evidence.** The administrator is not bound by common law or statutory rules of evidence, except that all privileges set forth in ch. 905, Stats., apply. All testimony having reasonable probative value shall be admitted, but immaterial, irrelevant, or unduly repetitious testimony shall be excluded. Basic principles of relevancy, materiality, and probative force, as recognized in equitable proceedings, shall govern the proof of all questions of fact.

**History:** 1–2–56; correction made under s. 13.92 (b) (b) 6., Stats., Register March 2020 No. 771; **CR 23–039: am. Register March 2024 No. 819, eff. 4–1–24.**

**DFI–Bkg 11.08 Form and style of papers. (1)** Except as provided in sub. (2), all papers filed in connection with any hearing shall be either printed or typewritten and, as far as practicable, shall be on paper 8 1/2 inches wide and 11 inches long. An original and 2 copies thereof shall be filed with the administrator and copies thereof shall also be served or furnished, as the case may be, to any other party or person interested who enters an appearance in said proceeding. Pleadings shall bear the name and mailing address of the party or a representative presenting the same. All pleadings, notices and other papers shall be captioned "BEFORE THE ADMINISTRATOR OF THE DIVISION OF BANKING OF WISCONSIN."

**(2)** Notwithstanding the provisions of sub. (1) and s. DFI–Bkg 11.09, papers and copies filed as described in sub. (1) may be filed by electronic means, as directed by the administrator.

**History:** 1–2–56; am. Register, July, 1968, No. 151, eff. 8–1–68; correction made under s. 13.93 (2m) (b) 5., Stats., Register, December, 1991, No. 432; correction made under s. 13.92 (b) (b) 6., Stats., Register March 2020 No. 771; **CR 23–039: renum. DFI–Bkg 11.08 to (1) and am., cr. (2) Register March 2024 No. 819, eff. 4–1–24.**

**DFI–Bkg 11.09 Service and filing of papers.** Except as provided in s. DFI–Bkg 11.08 (2), and unless otherwise provided by law, all orders, notices, and other papers may be served by the administrator by first class or registered mail addressed to any party at the last known post office address or to the party's attorney of record. Papers required to be filed with the administra-

tor may be mailed to the following address: Office of the Administrator of the Division of Banking, P.O. Box 7876, Madison, Wisconsin, 53707.

**History:** 1–2–56; am. Register, July, 1968, No. 151, eff. 8–1–68; am. Register, July, 1983, No. 331, eff. 8–1–83; correction made under s. 13.92 (b) (b) 6., Stats., Register March 2020 No. 771; **CR 23–039: am. Register March 2024 No. 819, eff. 4–1–24; correction made under s. 35.17, Stats., Register March 2024 No. 819.**

**DFI–Bkg 11.10 Notice of hearing in contested cases.** In all proceedings instituted by the administrator on complaint or otherwise for the revocation or suspension of any license or permit or in any other contested matter the notice of hearing shall contain a statement of the issues involved and may be in substantially the following form:

BEFORE THE ADMINISTRATOR OF THE DIVISION OF BANKING OF WISCONSIN

To_____ (Name)

_____ (Street Address)

_____ (City and State)

Respondent

Take Notice that a hearing will be held on the day of at the office of the Administrator of the Division of Banking of Wisconsin in Madison, Wisconsin, (or such other place as may be designated) at o'clock M., in the matter of (here insert briefly the subject matter of the hearing). The issue involved and the matters there to be considered are: (here insert with reasonable particularity in numbered paragraphs the particular matters and things complained of or at issue with respect to the subject matter of the hearing), to which you are required to make answer in writing at least days before the time set for hearing.

Dated at Madison, Wisconsin, this day of .

ADMINISTRATOR OF THE DIVISION OF BANKING OF WISCONSIN

By _____

**History:** 1–2–56; am. Register, July, 1968, No. 151, eff. 8–1–68; correction made under s. 13.92 (b) (b) 6., Stats., Register March 2020 No. 771.

**DFI–Bkg 11.11 Answer in contested cases.** The respondent shall be required to file an answer to any such notice in a contested case within the time specified in the notice. Failure to do so shall constitute a default, but the administrator may excuse the default upon terms the administrator considers to be just. The answer of the respondent shall be verified unless an admission of the allegations might subject the respondent to prosecution for a felony. The answer must contain all of the following:

**(1)** A specific denial of each of the material allegations that are controverted by the respondent.

**(2)** A statement of any new matter constituting a defense or affecting the respondent's situation which respondent wishes to have considered.

**History:** 1–2–56; **CR 23–039: renum. (1) (intro.), (a), (b) to DFI–Bkg 11.11 (intro.), (1), (2) and, as renumbered, am. (1) Register March 2024 No. 819, eff. 4–1–24.**

**DFI–Bkg 11.12 Admission by not denying.** Every material allegation of the charges not controverted in the answer shall be taken as true, but new matter in the answer shall be deemed controverted without any reply being served or filed.

**History:** 1–2–56.

**DFI–Bkg 11.13 Petition for rules. (1)** Any interested person may petition the administrator for the promulgation, amendment, or repeal of any rule that is within the jurisdiction of the administrator. The petition shall specify in detail any rule or part thereof that is proposed to be repealed, the content of any proposed amendment, and, if the petition seeks the promulgation of a new rule, the nature and purposes of the proposed new rule. If the petitioner requests the promulgation of a new rule, the petitioner shall specify with particularity the goal he or she would like to accomplish with the proposed rule.

**(2)** Upon the receipt of any such petition the administrator may commence an investigation into the matter, hold any conferences or hearings deemed necessary, and give notice of such hearings to all parties which he or she deems may be interested in the matter. Alternatively, the administrator may dispose of any petition in a summary manner.

**History:** 1–2–56; corrections made under s. 13.93 (2m) (b) 5., Stats., Register, December, 1991, No. 432; correction made under s. 13.92 (b) (b) 6., Stats., Register March 2020 No. 771; **CR 23–039: am. Register March 2024 No. 819, eff. 4–1–24.**

**DFI–Bkg 11.14 Declaratory rulings.** Any person in interest may petition the administrator for a declaratory ruling with respect to the applicability of any rule or statute enforced by the administrator to any persons, property, or state of facts in which the person has an interest. Any such petition shall be verified by the party presenting the petition, and upon receipt of the petition the administrator may investigate the facts set forth in such petition, and may hold such hearings upon notice to the petitioner or any other interested party. The administrator, however, is not required to issue a declaratory ruling and any action the administrator takes shall be discretionary except upon reference of a case in accordance with the provisions of s. 227.41, Stats.

**History:** 1–2–56; corrections made under s. 13.93 (2m) (b) 5. and 7., Stats., Register, December, 1991, No. 432; correction made under s. 13.92 (b) (b) 6., Stats., Register March 2020 No. 771; **CR 23–039: am. Register March 2024 No. 819, eff. 4–1–24.**

**DFI–Bkg 11.15 Prehearing conference. (1)** In any pending matter the administrator may direct any party or attorney for any party to appear before the administrator or the administrator's delegate to consider all of the following:

(a) Simplification of the issues.

(b) The necessity or desirability of amendments to the pleadings.

(c) The possibility of obtaining admissions of fact or as to documents which will avoid unnecessary proof.

(d) Such other matters as may aid in the disposition of the matter.

**(2)** The administrator or subordinate having the matter in charge may make an order reciting the action taken at the prehearing conference, the amendments made to pleadings and the agreements made as to any of the matters considered, and limiting the issues to those not disposed of by admissions or agreements. Such order shall control the subsequent course of the proceedings unless modified at the hearing to prevent manifest injustice.

**History:** 1–2–56; correction in (1) (intro.) made under s. 13.93 (2m) (b) 5., Stats., Register, December, 1991, No. 432; correction in (1) (intro.), (2) made under s. 13.92 (b) (b) 6., Stats., Register March 2020 No. 771; **CR 23–039: am. (1) (intro.), (a) to (c) Register March 2024 No. 819, eff. 4–1–24.**